



---

**WMTC 2009**

---

21<sup>st</sup> - 24<sup>th</sup> January

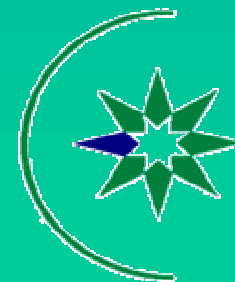
**World Maritime Technology Conference**

# **MARPOL Violations in the USA**

**Mumbai**

**22 January 2009**

West of England



# **MARPOL Enforcement in USA**

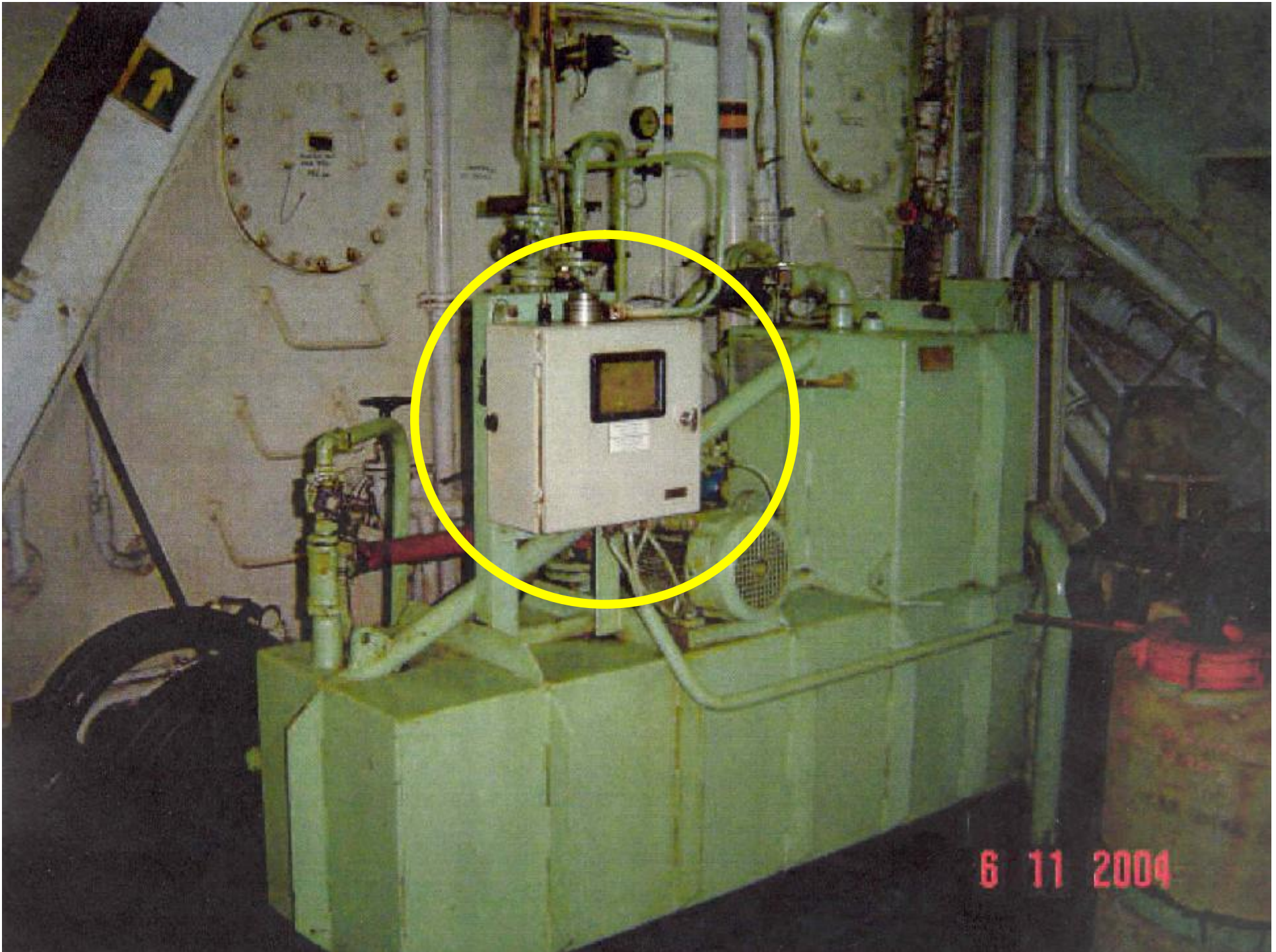
## **Purpose of Presentation**

- **History**
- **The circumstances**
- **The legal issues**
- **How to avoid OWS and ORB violations**

# MARPOL

## Annex I, Regulation 16

- **Equipment to filter oily water**
- **Oil concentration not to exceed 15 ppm**
- **Device to stop overboard discharge if  $> 15$  ppm**
- **Holding tank to retain oily bilge water**
- **Details to be recorded in Oil Record Book**
- **Also details of disposal and incineration**



6 11 2004

# **MARPOL Enforcement in USA**

## **Overview**

- **Authorities targeting OWS & ORB violations**
- **Not necessary to prove unlawful discharge of oil**
- **“Be fearful of prosecution” (Department of Justice)**
- **“A major priority” (Environmental Crimes Unit)**



**John Peter Suarez**  
**Assistant Administrator, Environmental**  
**Protection Agency**

*“These indictments and guilty pleas underscore the federal government’s resolve to prosecute polluters who use the oceans and shorelines as dumping grounds... We will take swift and appropriate actions against those who are responsible whether they are on board or in the boardroom”*

**Tom Sansonetti**  
**Assistant Attorney General, Justice Department**  
**Environmental & Natural Resource Division**

*“Our oceans are not dumping grounds and lying to the US Coast Guard will be vigorously prosecuted”*



# MARPOL Enforcement in USA

## Overview

- **Approx 90 cases to date (>\$200m fines/penalties)**
- **Whistleblower awards (up to 50% of fine)**
- **Plea terms becoming more stringent**
- **Challenges few and unsuccessful**

[Home](#)[Catch up](#)[Markets](#)[Classified](#)[Weekly](#)[Archive](#)[S&P data](#)[Subscription](#)

## US won't budge on sludge

A Ukrainian company has become the latest caught up in a wave of oily-water-separator prosecutions in the US.

Grid Odessa Ltd has agreed to pay a **\$275,000 fine** related to its cargo ship Grumant (built 1984), which was cited by US Coast Guard inspectors in April at the port of Portland, Oregon.

Inspectors found crew had doctored logbooks and set up bypass hoses to dump tons of oil waste at sea, according to a plea agreement.

US authorities have made oil-system cases a priority nationwide, and the Pacific Northwest is no exception, with more than 20 such cases in Oregon, Washington and Alaska over the past year. Some 13 cases have been developed on the Columbia River alone.

The Grumant's crew had claimed in records that they routinely used their onboard incinerator to purify wastewater from the engine room. But when inspectors asked them to demonstrate, they could not get the device started, and it apparently hadn't been used for a long time, the Coast Guard said.

Grid Odessa entered a guilty plea to one felony pollution count and also was placed on probation, officials said.

By *Joe Brady* in Stamford

## NYK in \$2m pollution fine

[Home](#)[Catch up](#)[Markets](#)[Classified](#)[Weekly](#)[Archive](#)[S&P data](#)[Subscription](#)[Advertising](#)[Contact us](#)

A court in Portland, Oregon, on Monday handed out the fine after the Panama-flag bulk carrier Spring Drake (built 1999) was proved to have falsified engine room records to conceal the dumping of oily wastes.

The court case followed an indictment on February 6 which brought charges of obstructing justice and making false statements. The ship's Indian chief engineer, Shashak Pendse, pleaded guilty and was given a one-month prison sentence.

The ship's managers, MMS Co Ltd of Tokyo, and the Panamanian registered owner, Grus Line Shipping, were the companies named and fined. The 46,640-dwt ship, however, is ultimately owned by NYK and is currently on long-term charter to Norden of Denmark.

The incident happened last August when the ship arrived in Portland to load grain but US Coast Guard officials noted that discharge pipes were oily and investigated.

The same ship is also reported as having been detained in January this year in Portland for having an inoperable oily water separator and related deficiencies.

The \$2m fine imposed in the NYK case follows one of \$4.2m against OMI Corporation of the US in November for similar offences. Fairmont Shipping of Hong Kong also had a bulk carrier caught in Portland in October last year after a crew member tipped off the authorities. Fairmont was fined \$450,000.

By *Andrew Guest* in London

[Home](#)[Catch up](#)[Markets](#)[Classified](#)[Weekly](#)[Archive](#)[S&P data](#)[Subscription](#)[Advertising](#)

## OMI in \$4m dumping fine

OMI Corporation has announced it has reached an agreement in principle with the US Department of Justice to pay a \$4.2m fine and serve a three-year probation over oily water dumping.

There has been a string of prosecutions by US authorities involving such incidents but OMI is one of the biggest names to have been caught in the net.

In a separate case in Portland Fairmont Shipping has pleaded guilty to a similar offence and will pay a \$450,000 fine. US Coast Guard inspectors found engineers on the 28,255-dwt Philippines-flag Emerald Bulker (built 1995) had bypassed the oily water separator.

The crew on an unnamed OMI ship had been caught doing the same thing. In both these cases and previous incidents the oil log contained false entries. The actual dumping usually takes place outside US territorial waters and beyond US jurisdiction but falsification of records is illegal.

OMI said it would plead guilty to one count of knowingly violating anti-pollution regulations by failing to maintain an oil record book on one of its ships.

In Fairmont's case investigators were tipped off by a crew member when the bulk carrier arrived in Portland to load grain last month. The informant said the ship was regularly dumping oily waste at night.

By *Andrew Guest* in London

## Evergreen pays \$25m



**Giant Taiwanese container line Evergreen International has agreed to a record \$25m fine in pleading guilty to concealing deliberate pollution from its vessels. Evergreen accepted terms of a plea bargain on felony criminal charges in five separate US jurisdictions -- Los Angeles, Newark, New Jersey; Portland, Oregon; Seattle and Charleston, South Carolina.**

The US said it had first discovered in May 2001 that Evergreen was using bypass pipes aboard its vessels to discharge waste oil without treatment in the oil-water separator. Investigators spread the probe to other Evergreen ships and found bypass pipes in use on at least seven other Evergreen ships.

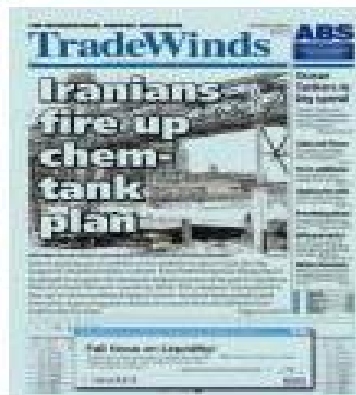
The equipment was used "regularly and routinely," authorities said, and Evergreen "admitted that it knew the fictitious logs were regularly inspected by the Coast Guard."

TradeWinds reported on 4 March that Evergreen was preparing to settle its case with the DOJ and that the fine likely would be the largest ever paid by a shipping company in an oily water separator case. The report noted that the justice department had floated a figure of \$40m, but that the figure likely could be negotiated downward.

Evergreen pleaded guilty Monday to 24 felony counts and one misdemeanor, according to a joint release from the US Department of Justice, the Coast Guard and the Environmental Protection Agency. The charges reflect five counts from each of the judicial districts named. They relate to a negligent discharge of waste oil into the Columbia River in Washington, and concealing the "deliberate, illegal discharge of waste oil."

[Home](#)
[Catch up](#)
[Markets](#)
[Classified](#)

[Weekly](#)
[Archive](#)
[S&P data](#)
[Subscription](#)
[Advertising](#)
[Contact us](#)
[Help](#)
[Log out](#)

[Home](#)[Catch up](#)[Markets](#)[Classified](#)[Weekly](#)[Archive](#)[S&P data](#)[Subscription](#)[Advertising](#)[Contact us](#)[Help](#)[Log out](#)

## \$10m MSC plea deal

**MSC will pay \$10m for deliberate pollution by the 2,394-teu MSC Elena (built 1994) and for covering up the crime.**

MSC Ship Management Ltd, affiliated with Mediterranean Shipping Corp (MSC), has plead guilty to obstruction of justice, destruction of evidence, making false statements, conspiracy, and violating the US Act to Prevent Pollution from Ships.

The company will also go on probation for five years and pay some \$500,000 to fund various environmental programmes -- including one to educate people about how to report marine pollution.

As part of the five-year probation, MSC Ship management "must operate under the terms of a government-approved Environmental Compliance Plan", officials add in a press release.

They explained further: "The plan includes review by an independent auditor of any of MSC Ship Management's 81 ships, including the MSC Elena, that trade in the United States, and a review of those audits by a court-appointed monitor."

The US Coast Guard (USCG) says it discovered MSC Elena's "magic pipe", a device allowing the engine crew to circumvent the ship's oily water separator, in a routine check during a port call in May.

In a "joint factual statement" that is part of the plea bargain, MSC and the prosecutors said: "Upon discovery of this bypass equipment during a U.S. Coast Guard inspection in Boston Harbor on 16 May 2005, senior company officials in Hong Kong directed crewmembers to lie to the Coast Guard. Additionally, senior ship engineers ordered that documents be destroyed and concealed."

Michael Sullivan of the US federal prosecutor's office in Boston, Massachusetts is quoted by local media as saying the vessel deliberately dumped 40 tonnes of sludge into the Atlantic over five months last year.

USCG rear admiral David Pekoske, commander of the First District of the USCG, is cited as calling the fine the world's largest ever in a case of deliberate pollution by a single vessel. Boston media say it is the biggest fine for an environmental offense ever paid in Massachusetts.

**Advertising**

Response  
Management

## Singh gets two months

[Home](#)[Catch up](#)[Web TV](#)[Weekly](#)[Markets](#)[Classified](#)[Archive](#)[S&P data](#)[Conferences](#)[Subscription](#)[Advertising](#)[Contact us](#)[Help](#)[Log out](#)

The chief engineer of the 2,394-teu MSC Elena (built 1994) has been sentenced to two months in jail for his part in the illegal dumping of oily sludge in 2004.

Indian national Mani Singh was also sentenced to pay a fine of \$3,000 and a special \$500 special assessment by US District Court Judge Patti B Saris.

In sentencing Singh Judge Saris said the term was "poetic justice" since it corresponded to the period in which he "supervised the dumping of tons of sludge from the vessel".

Last December Singh pleaded guilty to violating the Act to Prevent Pollution from Ships in connection with the use of a secretly concealed "magic pipe" used to deliberately discharge tons of sludge and oil contaminated waste overboard.

The case arose out of a US Coast Guard (USCG) inspection in Boston in May 2005 during which inspectors found what the defendant had referred to as a "magic pipe."

The US Attorney's office said the defendant had directed crew members to use this pipe to "directly discharge oil sludge into the Atlantic Ocean".

It added: "After the USCG found the bypass equipment hidden in a void space, Singh directed that a printout from the ship's computer and a rough log of actual tank volumes be concealed in an effort to cover up the falsification of ship records."



## Wallenius 'magic pipe' case gets guilty pleas

[Home](#)
[Catch up](#)
[Web TV](#)
[Weekly](#)

[Markets](#)
[Classified](#)
[Archive](#)
[S&P data](#)
[Conferences](#)
[Subscription](#)
[Advertising](#)
[Contact us](#)
[Help](#)
[Log out](#)

**Real live  
jobs updated  
DAILY!**

**+44(0)2380 334444**



**A chief engineer faces a prison term and a subsidiary of Sweden's Wallenius Lines is on probation after pleading guilty in a New Jersey federal court to using a so-called 'magic pipe'.**

The shipmanager will pay a total of \$6.5m in fines and community-service payments after pleading guilty to seven felony counts related to pollution by the 4,888-unit car carrier Atlantic Breeze (built 1986).

In addition to a possible five-year prison sentence for the chief engineer, all 12 ships of a Wallenius management company will be overseen for three years under an environmental compliance programme.

US federal prosecutors, the US Coast Guard (USCG) and the Environmental Protection Agency (EPA) announced jointly that Singapore-based Wallenius Ship Management Pte Ltd had pleaded guilty along with the officer.

The guilty plea comes after crew members faxed their union "alleging that they were being ordered to engage in deliberate acts of pollution, including the discharge of oil-contaminated bilge waste and sludge as well as garbage", according to a US government announcement of the plea deal.

The tip-off led to an inspection on 9 November 2005 at Port Newark, New Jersey, in which USCG inspectors found a "magic pipe" designed to circumvent the ship's oily-water separator.

The Equasis database indicates that the International Transport Workers' Federation (ITF) inspected the vessel that day as well.

A joint factual statement stipulated by the defendant said the pollution had been going on since 2002, along with a cover-up by the company.



Weekly  
paper

Archive

WebTV

中文文摘

S&P data

Jobs

LNG  
Unlimited

Conferences



## Ionia fined \$4.9m

Ionia Management of Greece has been fined \$4.9m for falsifying records to conceal oil dumping into the sea and for impeding a US Coast Guard (USCG) investigation. US district judge Janet Arterton also appointed a “special master” to oversee the company’s record keeping. This official will hold hearings every six months to review its books. No Ionia ships will be permitted into US ports without first installing special monitoring equipment.

The sentencing followed the company’s conviction in September for incidents relating to its 45,000-dwt products tanker Kriton (built 1991). Between at least 1 January 2006 and 20 March 2007, crew members made false entries in the ship's oil record book indicating that they had regularly used the ship's oil pollution prevention equipment.

Evidence at trial proved that the equipment was rarely, if ever, used. Instead, crew members pumped the ship's oily water and sludge directly from the ship into the ocean using a rubber hose. At least 968 tons of oily water was unaccounted for.

In addition to falsifying oil record books, Ionia Management submitted false statements in environmental compliance checklists that it was required to submit to the USCG as part of its probation from the 2004 conviction. After the USCG probe of the Kriton began in March 2007, the ship's chief engineer and second engineer destroyed the rubber hose used to pump waste to the ocean. Both pleaded guilty.

“Ionia Management engaged in serious criminal conduct, concealing their deliberate acts of large-scale pollution, even while they were on probation,” said Tenpas. “This company has a history of ignoring environmental laws and obstructing subsequent USCG investigations. Today’s sentence should make clear to them that such actions will be punished.”

Prosecutors had wanted a \$9m fine, while Ionia lawyer George Chalos wanted no more than \$306,000, arguing that events took place outside US waters. Ionia also argued that it had "a long history of effective environmental compliance" despite the two convictions.

# Engineer gets 6 months

A federal judge in Baltimore sentenced a former chief engineer of a US-flag car carrier to six months in prison in a magic pipes case, the US Justice Department says.

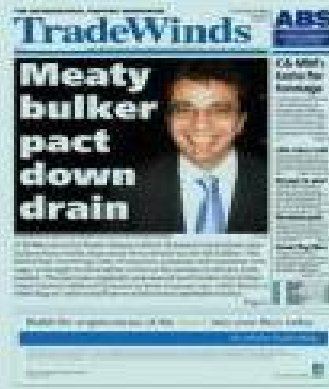
Mark Humphries was convicted in October of conspiracy to make illegal discharges of oily waste and making false statements to the Coast Guard. Judge William Nickerson also sentenced him to a \$1,000 fine and two years of supervised release.



He was the chief engineer of 5,740-car Tanabata (now Resolve, built 1994), which prosecutors argued had a removable bypass known as a "magic pipe" to sidestep the oily-water separator. Humphries faced a maximum five-year prison term.

The US mariner was the chief engineer of the Pacific-Gulf Marine (PGM)-managed vessel between April 2002 and September 2003.

"The crimes in this conspiracy involved deliberate falsification of ship records to conceal the illegal discharge of tonnes of oily waste," assistant US Attorney General Ronald Tenpas said in a statement. "This type of criminal conduct is all too frequent and the Justice Department and the Coast Guard will continue to work together to stem the tide of intentional pollution from ships."

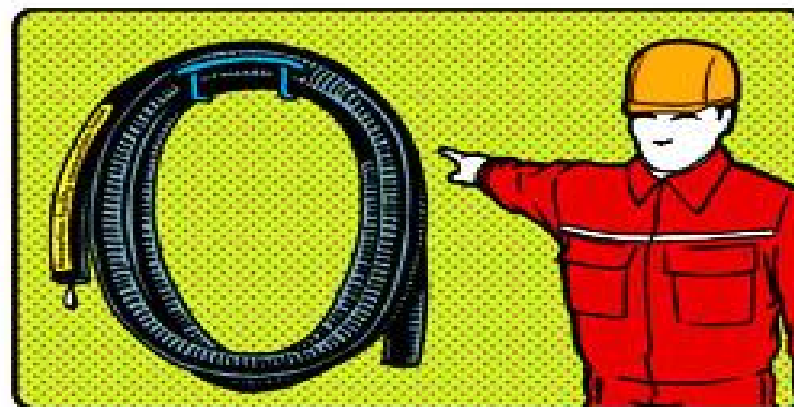
[Home](#)
[Catch up](#)
[Web TV](#)
[Weekly](#)

[LNG](#)
[Jobs](#)
[Markets](#)
[Classified](#)
[Archive](#)
[S&P data](#)
[中文文摘](#)
[Conferences](#)


TradeWinds and Mercator  
**SHIPPING china**  
**ENERGY 2008**  
 24 - 25 April,  
 Shanghai,  
 Shangri-La Hotel

# A \$7m magic pipe

**National Navigation Co (NNC) of Egypt has agreed to pay a \$7.25m penalty after pleading guilty to 15 charges related to deliberate pollution and falsification of records.**

Prosecutors in the US northwest state of Oregon said the amount was a record for the area and could have been even higher but for NNC's decision to co-operate at an early stage.



The case against the Cairo-based company began when US Coast Guard (USCG) inspectors boarded the Egyptian-flag, 70,087-dwt bulker Wadi Al Arish (built 1994) as it was berthed at the Dreyfus Grain Terminal in Portland on 19 November last year.

The USCG team found an "unauthorised discharge bypass device" – a so-called magic pipe – and, with law enforcement agents from the Environment Protection Agency, carried out a fleet-wide investigation which found violations on six ships whose crews had dumped "thousands of gallons of waste oil" in the sea and covered it up by falsifying records.

The company is also subject to a four-year probation during which it must develop, fund and implement a stringent fleet-wide environmental compliance program approved by the US, with court monitoring and independent fleet auditing.

[Home](#)
[Catch up](#)
[Web TV](#)
[Weekly](#)

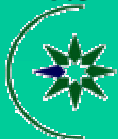
[LNG](#)
[Jobs](#)
[Markets](#)
[Classified](#)
[Archive](#)
[S&P data](#)
[中文文摘](#)
[Conferences](#)



# **MARPOL Enforcement in USA**

## **What does the USCG look for?**

- **Chipped or fresh paint**
- **Oily marks and smudges around pipe joints**
- **Blanked off flanges and flanged flexible hoses**
- **Possible crossover pipes (to ODV, sewage, ballast)**
- **Removable spool pieces and elbows in pipelines**
- **Operation of older OWS units**
- **Inability to operate OWS**
- **Suspicious crew behaviour & conflicting statements**



# **MARPOL Enforcement in USA**

## **What does the USCG look for?**

- **Oil Record Book inconsistencies:**
  - **entries too few or too regular**
  - **entries made in pencil and/or erased**
  - **pages missing**
  - **blank lines left between entries**
  - **lack of sludge disposal receipts**
  - **sludge production & disposal records don't match**

## BILGE & WASTE OIL PROCESSES

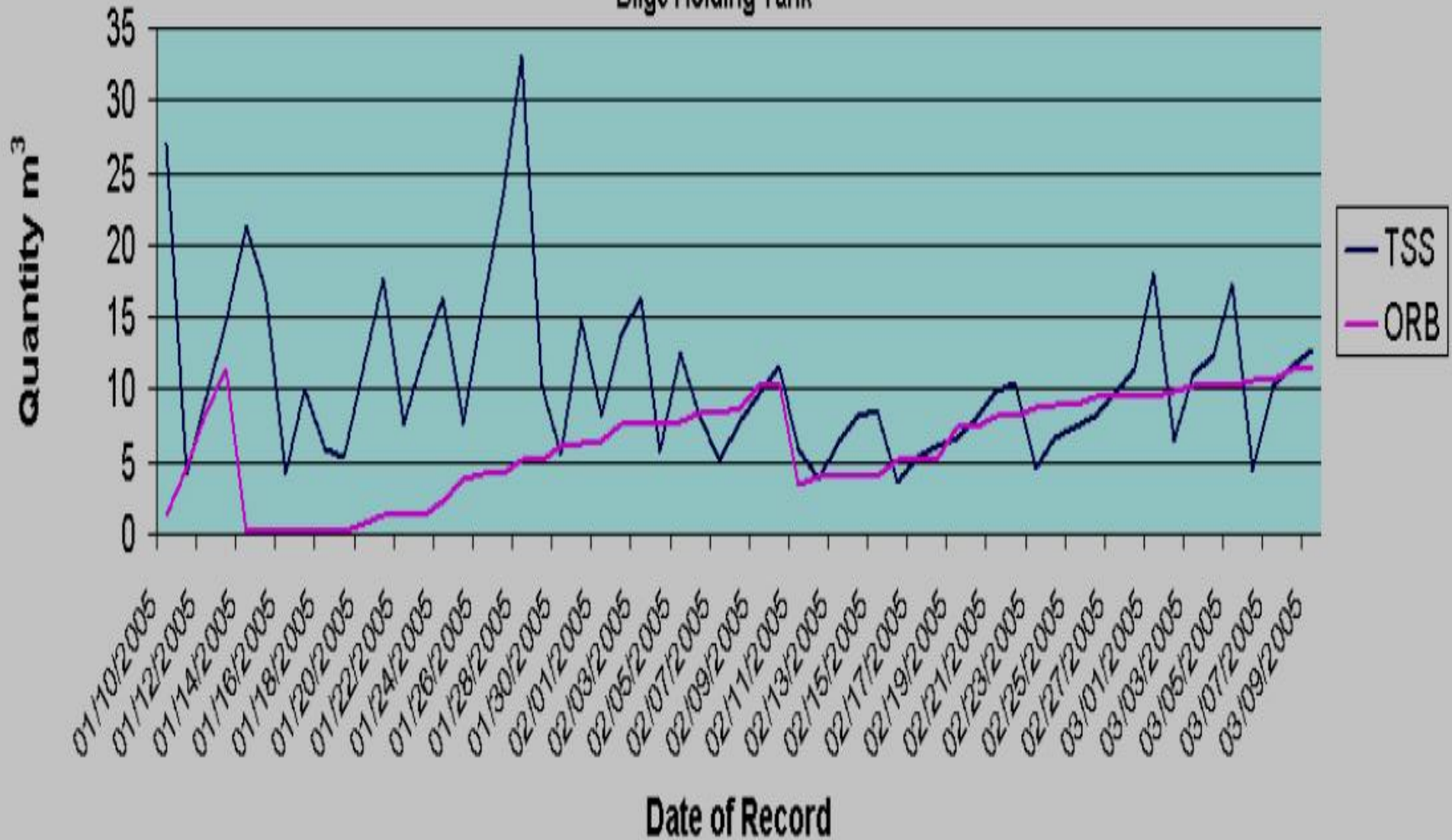
BILGE PUMPING				OILY WATER SEPARATOR						INCINERATOR									
DATE	BILGE HOLDING TANK LEVEL (m <sup>3</sup> )	BILGES PUMPED TO HOLDING TANK (m <sup>3</sup> )	BILGE HOLDING TANK AFTER TRANSFER (m <sup>3</sup> )	START TIME	STOP TIME	RUN TIME (hrs)	QUANTITY DISCHARGED (m <sup>3</sup> )	DISCHARGE RATE (m <sup>3</sup> /hr)	WASTE OIL TANK LEVEL (capacity 3 m <sup>3</sup> )	INCIN TANK LEVEL (capacity 1 m <sup>3</sup> )	WATER DRAINED FROM INCIN TANK	INCIN TANK LEVEL (AFTER DRAINING)	AMT BURNED	INCIN WOT AFTER INCIN	START TIME	STOP TIME	RUN TIME (hrs)	QUANTITY INCIN	INCIN RATE (m <sup>3</sup> /hr)
01/10/05	18		18.00						1.60	0.63	0.07	0.56	0.2	0.36	10:00	16:00	6.00	0.2	0.03
01/11/05	18.00	1.5	19.50						1.60	0.66	0.06	0.6	0.21	0.39	8:00	16:00	8.00	0.21	0.03
01/12/05	19.50	1.5	21.00						1.60	0.39		0.39		0.39					
01/13/05	21.00	3	24.00	8:30	11:00	2.50	12	4.80	1.60	0.39		0.39		0.39					
01/14/05	12.00		12.00						1.60	0.66	0.06	0.60	0.24	0.36	12:00	22:00	10.00	0.24	0.02
01/15/05	12.00	4	16.00						1.80	0.36		0.36		0.36					
01/16/05	16.00	3.5	19.50	6:15	11:15	5.00	15	3.00	1.80	0.67	0.06	0.61	0.26	0.35	12:00	23:30	11.50	0.26	0.02
01/17/05	4.50	4	8.50						1.80	0.35		0.35		0.35					
01/18/05	8.50	5	13.50						1.80	0.85	0.09	0.76	0.25	0.51	10:00	21:00	11.00	0.25	0.02
01/19/05	13.50	3	16.50						1.80	0.96	0.07	0.89	0.28	0.61	8:00	21:30	13.50	0.28	0.02
01/20/05	16.50	3	19.50	13:00	17:30	4.50	12	2.67	1.80	0.61		0.61		0.61					
01/21/05	7.50	4	11.50						1.80	0.96	0.06	0.90	0.3	0.60	6:00	20:00	14.00	0.3	0.02
01/22/05	11.50	3	14.50						1.80	1.00	0.06	0.94	0.42	0.52	7:00	19:00	12.00	0.42	0.04
01/23/05	14.50		14.50						1.80	0.52		0.52		0.52					
01/24/05	14.50	6	20.50	17:10	23:10	6.00	20	3.33	1.80	0.52		0.52		0.52					



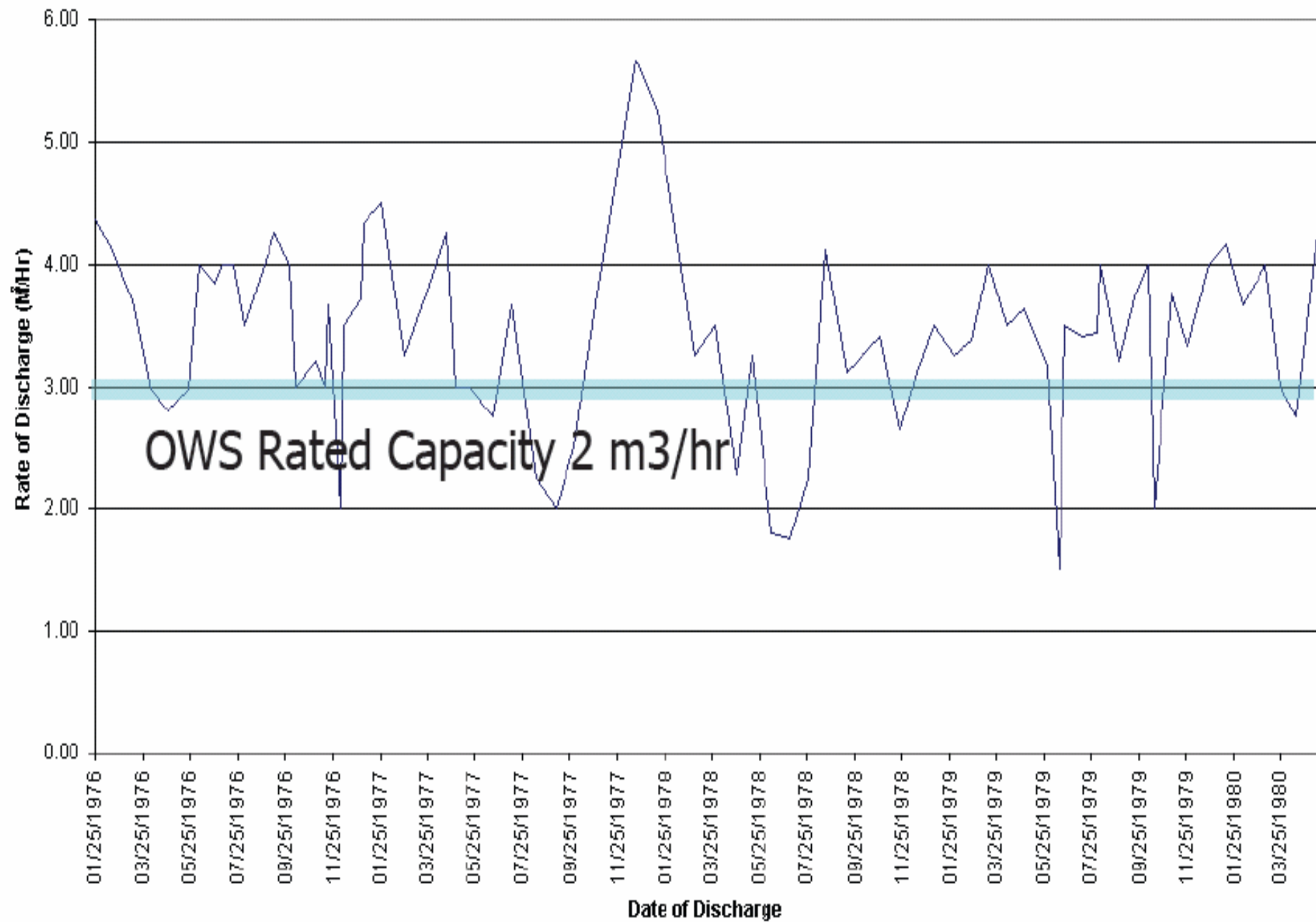
# Comparison of Records

## Tank Sounding Sheets vs. Oil Record Book Entries

### Bilge Holding Tank



# Rate of Discharge

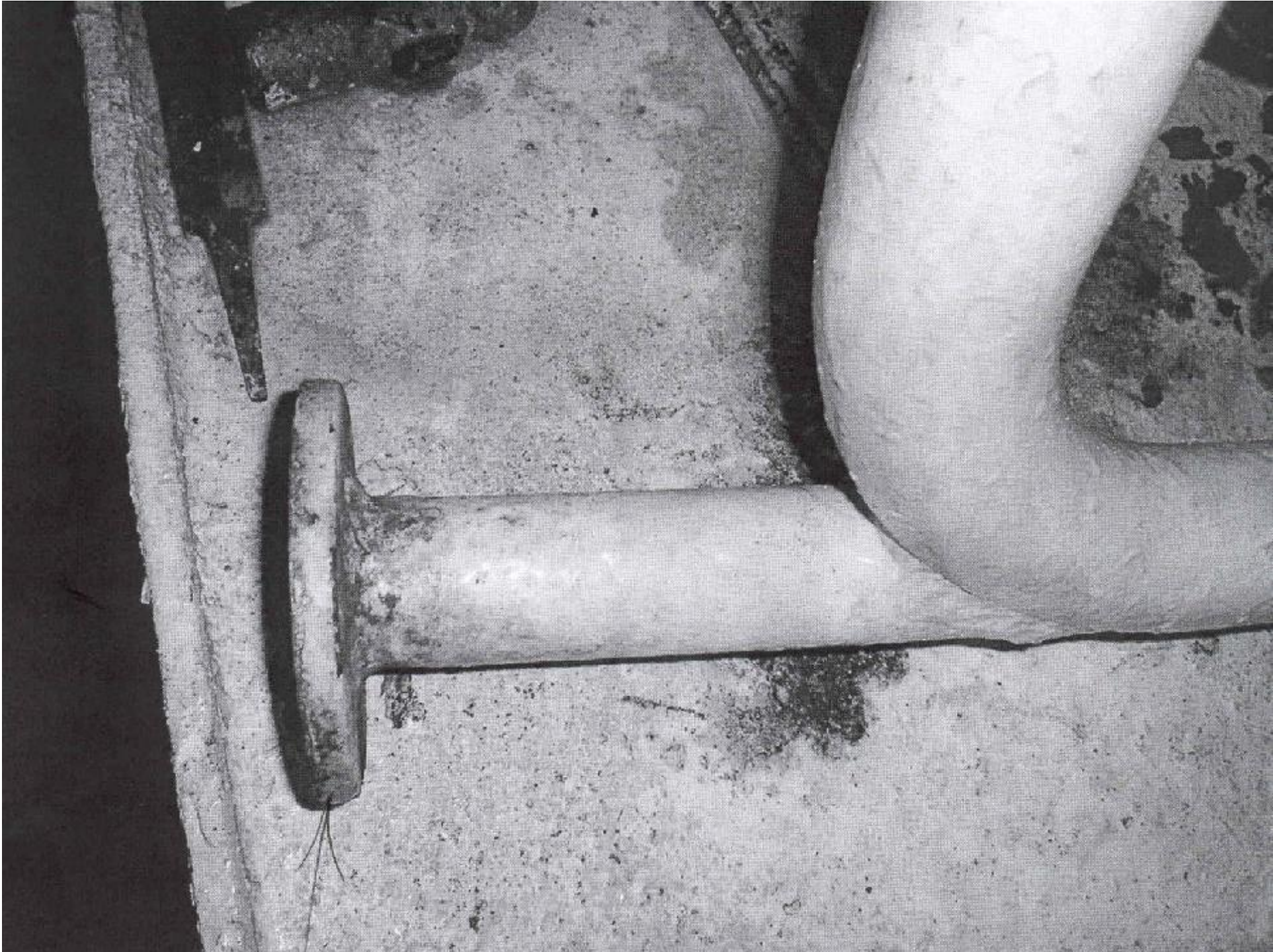










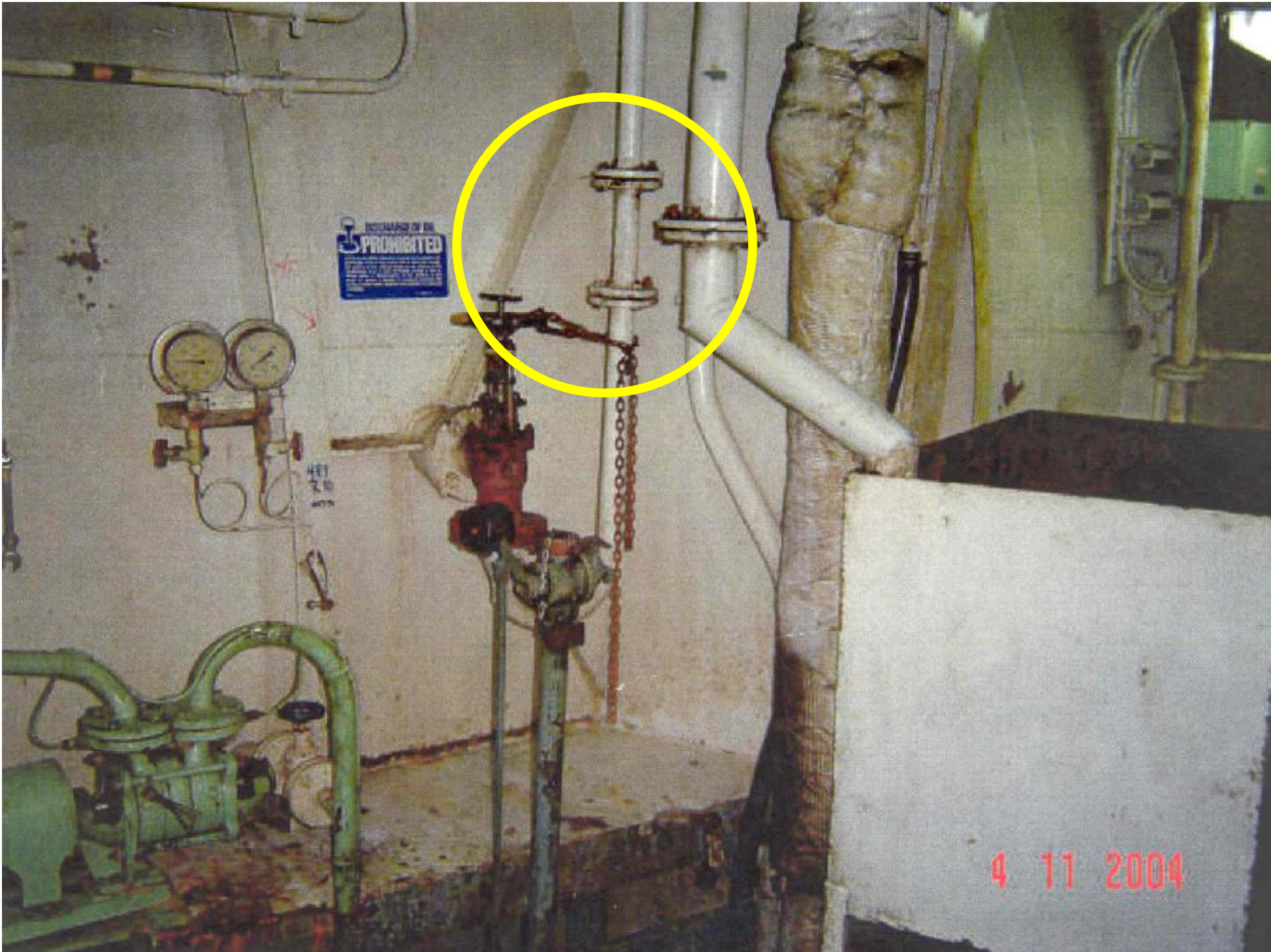




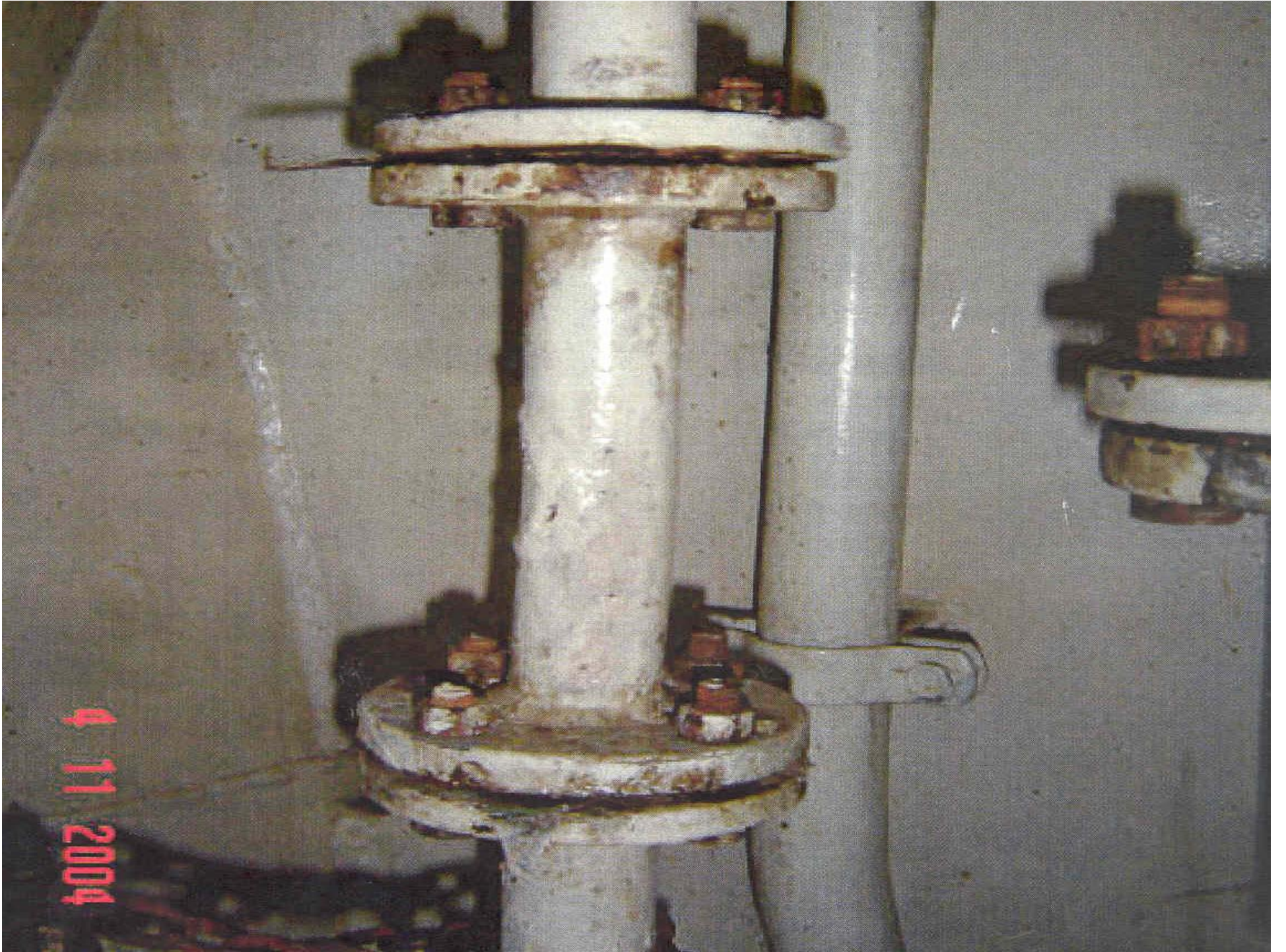














































# **MARPOL Enforcement in USA**

## **Typical Scenario**

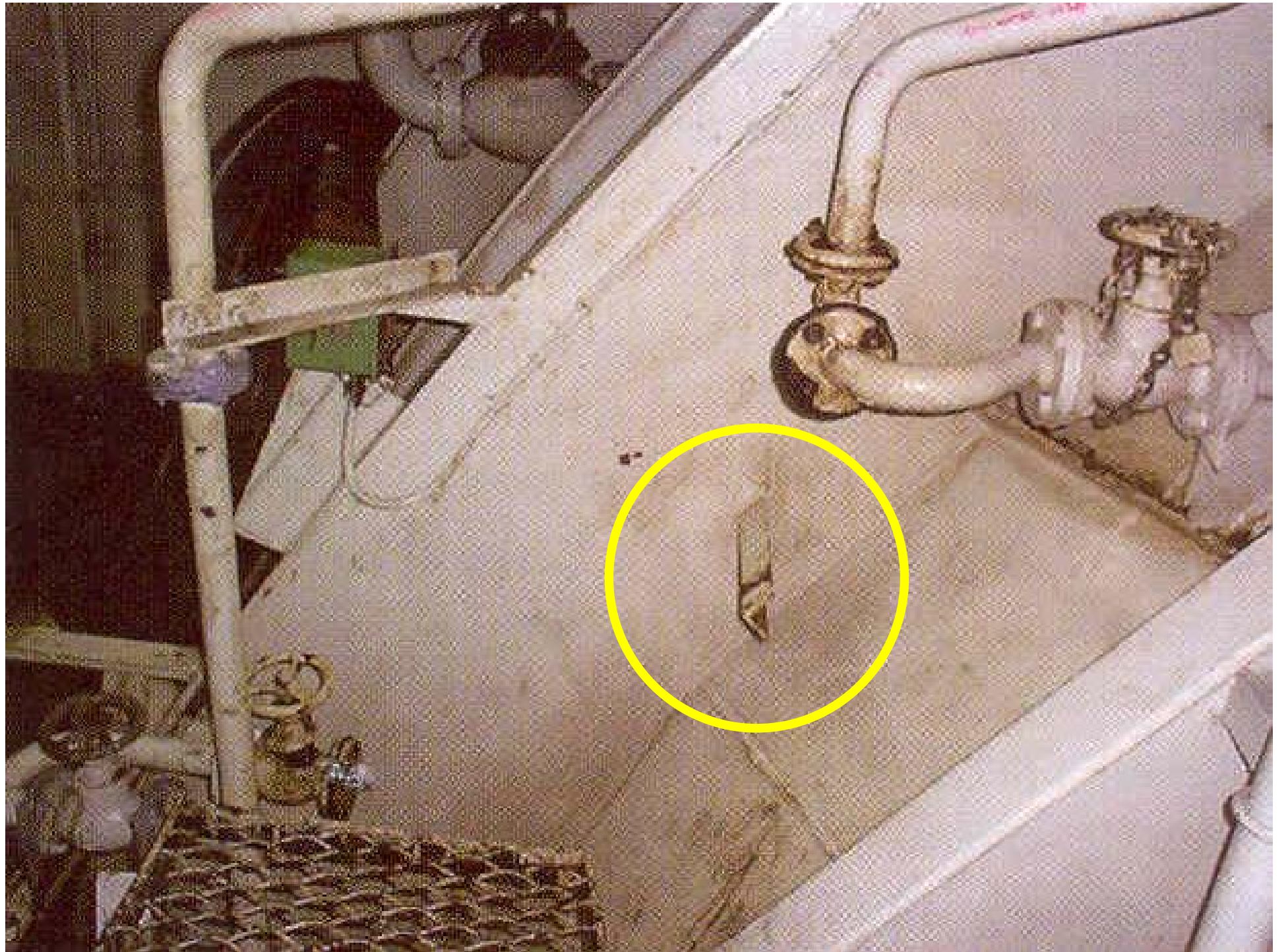
- **Routine USCG inspection – visit E/R, talk to crew**
- **Possible “red flags” observed**
- **Leave ship – may not voice suspicions at this stage**







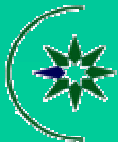




# **MARPOL Enforcement in USA**

## **Typical Scenario**

- **USCG return unannounced with EPA/FBI agents**
- **Break open pipelines and dismantle ODV**
- **Seize physical evidence (eg hoses, elbows)**
- **Take many photographs**
- **Interview crew and take statements:**
  - **OWS/incinerator inspection & maintenance**
  - **knowledge of OWS/incinerator operations**
  - **will look for inconsistencies**
- **Ship detained if grounds for suspicion**



# **MARPOL Enforcement in USA**

## **Important**

**Do not obstruct the investigators**

**Do not amend or destroy records**

**Do not try to influence crewmembers**

**Do not lie**

**This may make the situation worse**















# MARPOL Enforcement in USA

## Typical Scenario

- Search warrant for whole ship may be executed
- Master/Ch Eng may receive Grand jury subpoena:
  - ambit usually very broad
  - documents, manuals, messages, logs, computers

**United States District Court**  
EASTERN VIRGINIA

DISTRICT OF \_\_\_\_\_

TO:

**Mr Gene Rator  
Chief Engineer, MV "Clean Machine"  
Port of Norfolk, VA**

**SUBPOENA TO TESTIFY  
BEFORE GRAND JURY**

SUBPOENA FOR:

PERSON

DOCUMENT(S) OR OBJECT(S)

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE

**United States District Courthouse  
200 S Washington Street  
Norfolk, Virginia 22314**

COURTROOM

**Grand Jury Room**

DATE AND TIME

**July 25 2006, 9:30 am**

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s) :

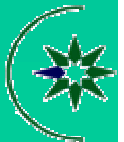
**Any and all documents relating to the storage, processing and disposal of oil sludge, waste oil and oily water including instructions from and communications with the operators of the vessel.**



# MARPOL Enforcement in USA

## Typical Scenario

- Search warrant for whole ship may be executed
- Master/Ch Eng may receive Grand jury subpoena:
  - ambit usually very broad
  - documents, manuals, messages, logs, computers
- Grand jury subpoena may be served on crew:
  - testimony
  - crew may be detained as material witnesses
- Findings considered with prosecution in mind
- Prosecutors may target individuals in company
- Be aware of Mutual Legal Assistance Treaty



[Home](#)[Catch up](#)[Markets](#)[Weekly](#)[Archive](#)[S&P data](#)[Subscription](#)[Advertising](#)[Contact us](#)[Help](#)[Log out](#)

## Owner indicted

A US federal grand jury has indicted Greek shipowner [Evangelos Madias](#) and others associated with the 38,000-dwt [bulker Irene EM](#) (built 1979) for allegedly dumping oily water at sea and attempting to cover it up. |

Named in the Delaware indictment are Greek companies [Chian Spirit Maritime Enterprises](#) and [Venetico Marine](#) -- respectively the managing and owning companies - plus first engineer [Adrian Dragomere](#), technical supervisor [Kristos Pagones](#) and [Venetico](#) owner [Evangelos Madias](#). All are charged with conspiracy to commit environmental crime and obstructing US Coast Guard (USCG) investigations. Government prosecutors underscore in an announcement that an indictment is only an accusation and that guilt or innocence remains to be established by a criminal trial. Another employee, [Grigore Manolache](#), has already pled guilty to representing false information to the USCG.

Possible penalties range between 15 years in prison and a \$750,000 fine for [Dragomere](#), 10 years and \$500,000 for [Pagones](#) and [Madias](#) and a lighter term for [Manolache](#). The last-named faces "up to five years in prison, a potential fine, a special assessment of \$100, and a term of probation up to five years", in the formulation of the US Department of Justice (DOJ) announcement.

The two companies could be fined up to \$2.5m each plus a five-year probation.

The indictment centres on the period from 3 October to 10 December 2005, when prosecutors allege that [Dragomere](#) discharged and ordered the discharge of untreated oily sludge and bilge water through a 'magic pipe' bypassing the ship's oily water separator up to four times a week, and violated the law by failing to enter the discharges in the ship's oil record book.

Prosecutors say the defendants along with other crew members of the ship conspired to create and maintain the false oil record book and to impede and attempt to influence a USCG inspection. The indicted defendants are also accused of encouraging crew to lie about the dumping and to conceal "material facts about the system used to perform overboard discharges of oily sludge and bilge water".

**faststream**  
RECRUITMENT LIMITED

Visit

[www.faststream.co.uk](http://www.faststream.co.uk)

+44(0)2380 334444

[Home](#)[Catch up](#)[Markets](#)[Classified](#)[Weekly](#)[Archive](#)[S&P data](#)[Subscription](#)[Advertising](#)[Contact us](#)[Help](#)[Log out](#)

## Sabine chief sent to jail

**The owner of a US shipping and transportation company has been sentenced to 33 months imprisonment in one of the heftiest pollution penalties yet seen.**

Rick Deal Stickle the chairman and owner of Sabine Transportation was also fined \$60,000 for illegal dumping of oil contaminated grain into the South China Sea and obstruction of justice.

Sabine Transportation, based in Cedar Rapids, Iowa, has already been fined \$2m and four senior employees convicted of ocean pollution offences.

Stickle and his team were reported to the US authorities by three whistleblowing crewmen who last year shared \$1m of the fine paid by Sabine.



*Sabine Transportation exploited US protectionism to ship dry cargoes on tankers.*

The offence that led to the prosecution occurred on the 122,000-dwt tanker Juneau (built 1974) during 1999, although it appeared that illegal ocean dumping also happened fairly frequently on other Sabine ships.

The tanker was used to transport a US aid cargo to Bangladesh but approximately 440 tonnes was rejected as contaminated by oil.

Options for the legal disposal of the contaminated cargo were discussed while the ship was berthed at Singapore but rejected by Stickle as too expensive.

# **MARPOL Enforcement in USA**

## **Typical OWS/ORB charges**

- **Act to Prevent Pollution from Ships (MARPOL)**
- **Clean Water Act (failing to report discharge of oil)**
- **False Statements Act (fine/up to 5 years prison)**
- **Obstruction of Justice (fine/up to 5 years prison)**
- **Witness Tampering (fine/up to 10 years prison)**
- **Conspiracy (fine/up to 5 years prison)**



# **MARPOL Enforcement in USA**

## **Important**

**US corporate liability laws make it very difficult for a shipowner to avoid criminal liability in such cases. A company cannot escape prosecution by claiming that it “didn’t know”.**

# **MARPOL Enforcement in USA**

## **Important**

**Very few successful challenges.**  
**Know when to cut losses!**

# **MARPOL Enforcement in USA**

## **Terms of OWS plea agreements**

- **Fines (reward of up to 50% for “whistleblower”)**

APRIL 6, 2002

FABRICATION OF PIPE CONNECTED TO OVERBOARD AS PER INSTRUCTION OF FIRST ENGR, REASON WHY HE SAID ALL THE SLOP TANK IN THE ENGINE ARE IN HIGH LEVEL. BEFORE <sup>WE</sup> LEFT IN PORT OF BOSTON AROUND 4 TO 5 PM AND STARTED PERFORMING THE SAID <sup>WORK</sup> THAT INCLUDED INSTALLATION. AND THEN THE START PUMPING OUT ALL THE SLOP FROM THE TANK, IN WHICH THE SAID ACTION AGAINST THE MARPOL 73/78 CONVENTION. AND ITS ALSO STRICTLY PROHITED TO DISPOSED ANY KIND OF OIL OR LIQUID SUBSTANCES UNDER THE NAVIGABLE WATER OF UNITED STATES OF AMERICA, SINCE I CAME ON BOARD, THEY ARE DOING THIS ALL TIMES WE LEFT IN UNITED STATE OF AMERICA. FURTHERE MORE THEY DONT RECORD WHERE THE DISPOSED THEIR OIL SLIP AND OTHER WASTE MATERIALS..

SIGNED BY  
[REDACTED]  
APRIL 6, 2002



## OMI whistleblower wins \$2.1m

[Home](#)
[Catch up](#)
[Markets](#)
[Classified](#)

[Weekly](#)
[Archive](#)
[S&P data](#)
[Subscription](#)
[Advertising](#)
[Contact us](#)
[Help](#)
[Log out](#)


**An OMI crewman who blew the whistle on dumping of oil and sludge at sea from the 47,000-dwt tanker *Guadalupe* (built 2000) has been handed the largest US government reward ever in a tanker case.**

Former OMI third engineer Maha Patra received \$2.1m of the \$4.2m fine assessed against OMI Friday in US District Court in Newark, New Jersey. OMI agreed to a plea deal in response to charges that it had presented false log books that covered up illegal use of its oil-water separator equipment in 2001.

OMI general counsel Frederic London, who attended the sentencing hearing before Judge Katharine S Hayden, said it was determined during the courtroom discussion that Patra's award amounted to four times the largest previous outlay for a whistleblower in a tanker case -- around \$500,000.

The 50% cut is standard under whistleblower regulations, which cut across a wide range of industries and are perhaps most prevalent in drug cases.

"While I perfectly understand the government's reasons for doing it, you worry that it encourages people to report any future problems to the government rather than to us," London said of the award.

OMI's fine was as expected under a plea deal reached several months ago, as was its acceptance of three months probation. The government found a bypass hose used to frustrate the intended separation of oil from water to be discharged into the ocean. About 20 discharges took place as the tanker carried out voyages to the US, Europe, Latin America and Caribbean.

# **MARPOL Enforcement in USA**

## **Terms of OWS plea agreements**

- **Fines (including 50% to “whistleblower”)**
- **Probation**
- **SMS assessed/monitored by independent auditor**
- **Fleet “Environmental Compliance Program”**
- **Possible debarment (US government contracts)**
- **Possible suspension of US trading rights**

## Banned from US waters

**A Korean bulker owner will not be trading its ships to US ports for the next three years as part of a 'magic pipe' plea bargain.**

The case is that of the 31,000-dwt bulker Sun New (built 1985). After an inspection of the ship in January of this year, the company and crew members admitted bypassing the oily-water separator on a voyage from South Korea to Camden, New Jersey and falsifying the onboard log that is meant to record such discharges.

US prosecutors say Seoul-based Sun Ace Shipping Co will pay \$500,000 in fines and payments to environmental groups in New Jersey, besides agreeing to keep its ships out of US waters for three years. However, reference sources indicate that this ban would cover only the Sun New itself and a few small general cargoships that make up the rest of the Sun Ace fleet.

Still to be tried are Sun New's chief engineer and second engineer, who were indicted last month. Their trial is set for 20 October.

Sun Ace bought Sun New from India's Tolani Shipping in April 2005 for a reported \$14.5m.

[Home](#)[Catch up](#)[Web TV](#)[Weekly](#)[Markets](#)[Classified](#)[Archive](#)[S&P data](#)[Conferences](#)[Subscription](#)

# **MARPOL Enforcement in USA**

## **P&I Cover**

**P&I cover is not automatic in incidents of this nature. Each case is considered on its own merits. In certain circumstances there may be no cover at all.**



# MARPOL Enforcement in USA

## Preventive measures

- Always be truthful - lying makes it worse
- Do not attempt to destroy evidence or influence others



**INTERTANKO**

The International Association of Independent Tanker Owners

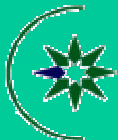
A Guide for correct entries in the Oil Record Book  
(Part I - Machinery space operations)

For safe transport, cleaner seas and free competition

# MARPOL Enforcement in USA

## Preventive measures

- Always be truthful - lying makes it worse
- Do not attempt to destroy evidence or influence others
- Ensure ORB completed accurately & check figures
- Pay special attention to OWS and OCM:
  - inspect, maintain, test & calibrate as specified
  - keep detailed records incl painting/dismantling
  - check pipelines/fittings against ships' drawings
  - remove all flexible pipes
  - remove or blank off all flanges not in use.
- Use USCG OWS inspection criteria as baseline?



U.S. Department of  
Homeland Security

United States  
Coast Guard



Commandant  
United States Coast Guard

2100 Second Street, S.W.  
Washington, DC 20593-0001  
Staff Symbol: G-PCV-2  
Phone: (202) 267-0476  
Fax: (202) 267-0506

16711  
G-PCV Policy Letter  
06-01

From: *M. B. Karr*  
M. B. Karr, CAPT  
COMDT (G-PCV)

JAN 20 2006

To: Distribution

Subj: GUIDANCE FOR THE ENFORCEMENT OF MARPOL ANNEX I DURING PORT  
STATE CONTROL EXAMINATIONS

Ref: (a) Annex I to The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, relating thereto (MARPOL 73/78)  
(b) Act to Prevent Pollution from Ships, (33 U.S.C. 1901-1911)  
(c) Navigation and Vessel Inspection Circular No. 8-83, "Guidance for Compliance with Annex I, MARPOL 73/78"  
(d) Navigation and Vessel Inspection Circular No.6-94, Change 1, "Guidance for Issuing International Oil Pollution Prevention (IOPP) Certificates Under Annex I of MARPOL 73/78"  
(e) MOC Policy Letter 04-13, " Guidelines for the Inspection of Oily Water Monitor and Separator Systems"







## WARNING

IT IS STRICTLY PROHIBITED TO  
BYPASS THE BILGE WATER SEPARATOR  
AND/OR MODIFY THE BILGE WATER PUMPING  
PIPING AND OR ATTACH TO BILGE WATER  
SEPARATOR ANY EQUIPMENT OTHER THEN  
THOSE SPECIFIED BY THE MAKERS.

CREWMEMBERS INVOLVED IN THE ILLEGAL  
DISCHARGE IN THE SEA OF BILGE WATER  
OR ANY OTHER POLLUTANT WILL BE  
LIABLE TO CIVIL OR CRIMINAL  
PROCEEDINGS AND WILL BE DISMISSED  
AND PROSECUTED BY THE COMPANY.

# MARPOL Enforcement in USA

## Preventive measures

- Strict monitoring by supts and internal auditors
- Clear statements in SMS re MARPOL compliance
- Penalties in SMS for deliberate acts
- Crew to notify senior management if concerned
- Consider “tamperproof” monitoring systems





# Department of Justice

FOR IMMEDIATE RELEASE  
WEDNESDAY, AUGUST 8, 2007  
[WWW.USDOJ.GOV](http://WWW.USDOJ.GOV)

ENRD  
(202) 514-2007  
TDD (202) 514-1888

## U.S. Coast Guard Officer Indicted for Lying About Vessel Pollution

HONOLULU – David G. Williams, a Chief Warrant Officer in the U.S. Coast Guard and the Main Propulsion Assistant for the Coast Guard Cutter RUSH, was indicted today by a federal grand jury for obstructing the investigation into his authorization of the direct overboard discharge of bilge wastes through the deep sink into the Honolulu Harbor, announced Ronald J. Tenpas, Acting Assistant Attorney General for the Justice Department's Environment & Natural Resources Division and U.S. Attorney for the District of Hawaii Edward H. Kubo Jr.

Williams was charged with two counts: one count of obstruction of justice and one count of making a false statement. As the Main Propulsion Assistant, he oversaw the maintenance of the main diesel engines and other machinery in the engine room for the Coast Guard Cutter RUSH, a 378 ft. high endurance cutter stationed in Honolulu.

"This indictment stands as notice that the Department of Justice will enforce the nation's environmental laws in an even-handed and thorough manner," said Acting Assistant Attorney General Tenpas.

According to the indictment, on or about March 8, 2006, Williams authorized the direct discharge of bilge wastes into Honolulu Harbor. The Engineering Department personnel engaged in an unusual and abnormal operation and configuration of engine room equipment to pump bilge wastes from the aft bilge to the deep sink and overboard into Honolulu Harbor, thereby bypassing the "oily water separator" (OWS) system. The OWS system is a pollution prevention control device used by high endurance Coast Guard cutters like the RUSH to manage accumulations of bilge wastes while underway at sea. The OWS system collects, stores, and processes wastes to separate the water from the oil and other wastes.

On or about March 13, 2006, the State of Hawaii Department of Health received an anonymous complaint stating that U.S. Coast Guard Cutter RUSH crew members were ordered to pump approximately 2,000 gallons of bilge waste into Honolulu Harbor. On May 1, 2006, investigators from the U.S. Coast Guard Investigative Service (CGIS) and the Environmental Protection Agency (EPA) received confirmation from Main Propulsion Division personnel who personally participated that bilge wastes had indeed been discharged through the deep sink and into Honolulu Harbor. CGIS investigators obtained various documents from the RUSH, including engineering and ship's logs, tank level sounding sheets, and a pneumatic pump.



---

**WMTC 2009**

---

21<sup>st</sup> - 24<sup>th</sup> January

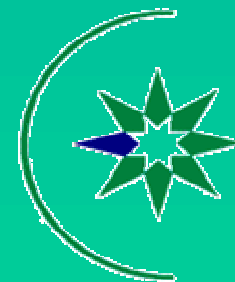
**World Maritime Technology Conference**

# **MARPOL Violations in the USA**

**Mumbai**

**22 January 2009**

West of England



# **MARPOL Enforcement in USA**

## **Purpose of Presentation**

- **History**
- **The circumstances**
- **The legal issues**
- **How to avoid OWS and ORB violations**



# MARPOL

## Annex I, Regulation 16

- **Equipment to filter oily water**
- **Oil concentration not to exceed 15 ppm**
- **Device to stop overboard discharge if  $> 15$  ppm**
- **Holding tank to retain oily bilge water**
- **Details to be recorded in Oil Record Book**
- **Also details of disposal and incineration**

# **MARPOL Enforcement in USA**

## **Overview**

- **Authorities targeting OWS & ORB violations**
- **Not necessary to prove unlawful discharge of oil**
- **“Be fearful of prosecution” (Department of Justice)**
- **“A major priority” (Environmental Crimes Unit)**

**John Peter Suarez**  
**Assistant Administrator, Environmental**  
**Protection Agency**

*“These indictments and guilty pleas underscore the federal government’s resolve to prosecute polluters who use the oceans and shorelines as dumping grounds... We will take swift and appropriate actions against those who are responsible whether they are on board or in the boardroom”*

**Tom Sansonetti**  
**Assistant Attorney General, Justice Department**  
**Environmental & Natural Resource Division**

*“Our oceans are not dumping grounds and lying to the US Coast Guard will be vigorously prosecuted”*



# MARPOL Enforcement in USA

## Overview

- **Approx 90 cases to date (>\$200m fines/penalties)**
- **Whistleblower awards (up to 50% of fine)**
- **Plea terms becoming more stringent**
- **Challenges few and unsuccessful**

# **MARPOL Enforcement in USA**

## **What does the USCG look for?**

- **Chipped or fresh paint**
- **Oily marks and smudges around pipe joints**
- **Blanked off flanges and flanged flexible hoses**
- **Possible crossover pipes (to ODV, sewage, ballast)**
- **Removable spool pieces and elbows in pipelines**
- **Operation of older OWS units**
- **Inability to operate OWS**
- **Suspicious crew behaviour & conflicting statements**



# MARPOL Enforcement in USA

## What does the USCG look for?

- **Oil Record Book inconsistencies:**
  - entries too few or too regular
  - entries made in pencil and/or erased
  - pages missing
  - blank lines left between entries
  - lack of sludge disposal receipts
  - sludge production & disposal records don't match

# **MARPOL Enforcement in USA**

## **Typical Scenario**

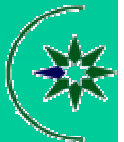
- **Routine USCG inspection – visit E/R, talk to crew**
- **Possible “red flags” observed**
- **Leave ship – may not voice suspicions at this stage**



# **MARPOL Enforcement in USA**

## **Typical Scenario**

- **USCG return unannounced with EPA/FBI agents**
- **Break open pipelines and dismantle ODV**
- **Seize physical evidence (eg hoses, elbows)**
- **Take many photographs**
- **Interview crew and take statements:**
  - **OWS/incinerator inspection & maintenance**
  - **knowledge of OWS/incinerator operations**
  - **will look for inconsistencies**
- **Ship detained if grounds for suspicion**



# **MARPOL Enforcement in USA**

## **Important**

**Do not obstruct the investigators**

**Do not amend or destroy records**

**Do not try to influence crewmembers**

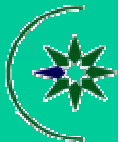
**Do not lie**

**This may make the situation worse**

# MARPOL Enforcement in USA

## Typical Scenario

- Search warrant for whole ship may be executed
- Master/Ch Eng may receive Grand jury subpoena:
  - ambit usually very broad
  - documents, manuals, messages, logs, computers
- Grand jury subpoena may be served on crew:
  - testimony
  - crew may be detained as material witnesses
- Findings considered with prosecution in mind
- Prosecutors may target individuals in company
- Be aware of Mutual Legal Assistance Treaty



# **MARPOL Enforcement in USA**

## **Typical OWS/ORB charges**

- **Act to Prevent Pollution from Ships (MARPOL)**
- **Clean Water Act (failing to report discharge of oil)**
- **False Statements Act (fine/up to 5 years prison)**
- **Obstruction of Justice (fine/up to 5 years prison)**
- **Witness Tampering (fine/up to 10 years prison)**
- **Conspiracy (fine/up to 5 years prison)**



# **MARPOL Enforcement in USA**

## **Important**

**US corporate liability laws make it very difficult for a shipowner to avoid criminal liability in such cases. A company cannot escape prosecution by claiming that it “didn’t know”.**

# **MARPOL Enforcement in USA**

## **Important**

**Very few successful challenges.**

**Know when to cut losses!**

# **MARPOL Enforcement in USA**

## **Terms of OWS plea agreements**

- **Fines (including 50% to “whistleblower”)**
- **Probation**
- **SMS assessed/monitored by independent auditor**
- **Fleet “Environmental Compliance Program”**
- **Possible debarment (US government contracts)**
- **Possible suspension of US trading rights**

# **MARPOL Enforcement in USA**

## **P&I Cover**

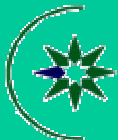
**P&I cover is not automatic in incidents of this nature. Each case is considered on its own merits. In certain circumstances there may be no cover at all.**



# MARPOL Enforcement in USA

## Preventive measures

- Always be truthful - lying makes it worse
- Do not attempt to destroy evidence or influence others
- Ensure ORB completed accurately & check figures
- Pay special attention to OWS and OCM:
  - inspect, maintain, test & calibrate as specified
  - keep detailed records incl painting/dismantling
  - check pipelines/fittings against ships' drawings
  - remove all flexible pipes
  - remove or blank off all flanges not in use.
- Use USCG OWS inspection criteria as baseline?



# MARPOL Enforcement in USA

## Preventive measures

- Strict monitoring by supts and internal auditors
- Clear statements in SMS re MARPOL compliance
- Penalties in SMS for deliberate acts
- Crew to notify senior management if concerned
- Consider “tamperproof” monitoring systems

**World Maritime Technology Conference**

# **MARPOL Violations in the USA**

**Mumbai  
22 January 2009**

West of England

